

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Statement of Issues Against:

ARTHUR LYNN BRAVO, JR.

Applicant for Registered Nurse License

Respondent.

Case No. 2012-680

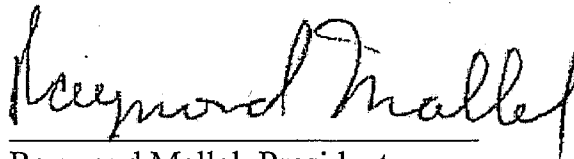
OAH No. 2012060134

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on June 7, 2013.

IT IS SO ORDERED this 9th day of May, 2013.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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PROPOSED DECISION

Beth Faber Jacobs, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on December 12, 2012, in San Diego, California.

Lauro Paredes, Deputy Attorney General, Department of Justice, State of California, represented complainant, Louise R. Bailey, M.Ed., R.N., the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, State of California.

Edgardo Gonzalez, Attorney at Law, represented respondent, Arthur Lynn Bravo, Jr., who was present throughout the hearing.

The matter was submitted on December 12, 2012. On January 10, 2013, an Order was issued reopening the record and requesting additional briefing on the meaning, application, and effect of Business and Professions Code section 480, subdivision (b). Following the receipt of the briefing, the matter was submitted on February 11, 2013.

PROTECTIVE ORDER

The names of the victims in the criminal case referred to in this matter and the name of respondent's former girlfriend, L.S., are subject to a protective order. Any document received as evidence in this matter that contains the actual name of either victim shall, before any disclosure to the public, be redacted and replaced with initials "D.M." for the adult and "A.M." for the minor; references to respondent's former girlfriend who was not a victim in the criminal case discussed in this proposed decision, L.S., shall also be referred to by her initials. No court reporter or transcription service shall transcribe the actual names of the victims or the former girlfriend, but shall instead refer to that person by their initials, as has been done in this proposed decision.

SUMMARY

Respondent was convicted of torture and child cruelty 17 years ago after he beat his girlfriend and her baby while he was under the influence of alcohol and methamphetamine. Respondent served time in custody, after which he worked and attended nursing school. His convictions were expunged. In 2010, respondent received a certificate of rehabilitation. Under Business and Professions Code section 480, subdivision (b), the board may not deny respondent's application for a registered nursing license solely on the basis of his convictions. However, the agency may consider the conduct underlying those convictions as separate grounds for denial. The evidence presented in this matter established that respondent engaged in heinous conduct. Respondent did not provide sufficient evidence of rehabilitation to warrant the issuance of a registered nursing license: He blamed his victim; he did not accept full responsibility for his actions; he did not provide adequate corroboration for some of the rehabilitation he claimed; and his expert's opinion was flawed. It would not be in the public interest to issue respondent a license as a registered nurse. His request for licensure is denied.

FACTUAL FINDINGS

Jurisdictional Matters

1. On May 2, 2012, complainant Louise R. Bailey, M.Ed., R.N., Interim Director of the Board of Registered Nursing (board), signed the Statement of Issues in her official capacity. The Statement of Issues and other required documents were served on Arthur Lynn Bravo, Jr. (respondent). Respondent timely filed a Notice of Defense.
2. The record in the administrative hearing was opened on December 12, 2012. Jurisdictional documents were presented. Sworn testimony and documentary evidence was received.
3. During the hearing, complainant moved to admit Exhibit 7, a police report, into evidence under *Lake v. Reed* (1997) 16 Cal.4th 448. Respondent objected to consideration of pages 147 through 149 of the police report. The motion to not consider those pages of the police report was granted on the grounds that those three pages were more prejudicial than probative. Exhibit 7 was received into evidence, with the exception of pages 147-149. Pages 147-149 have been physically removed from Exhibit 7, separately marked, and are identified in the Administrative Law Judge's Exhibit List as Exhibit 7(a). The Exhibit List reflects that Exhibit 7(a) was not received into evidence.
4. To conform to proof and pursuant to a stipulation of the parties, the Statement of Issues was amended by striking the allegation that respondent was convicted of a violation of Penal Code section 236, false imprisonment.

5. Closing arguments were given, the record was closed, and the matter was submitted on December 12, 2012. The record was reopened on January 10, 2013, and the administrative law judge requested additional briefing.

6. On January 29, 2013, complainant filed a First Amended Statement of Issues, which was marked as Exhibit 11. The First Amended Statement of Issues included two causes for denial of the application. The first cause was identical to the first cause in the initial Statement of Issues. It included the allegation that respondent had been convicted of a violation of Penal Code section 236, false imprisonment – the allegation that was struck by stipulation during the hearing to conform to proof.

After the First Amended Statement of Issues was filed, neither party requested that the record be reopened. The First Amended Statement of Issues' inclusion of the allegation that respondent had been convicted of false imprisonment is found to be an oversight. The previous stipulation of the parties to strike the allegation to conform to proof is deemed transferred to the First Amended Statement of Issues, and that allegation related to a conviction for false imprisonment is stricken.

7. Complainant's written argument following reopening of the record was marked as Exhibit 10. Respondent's written argument was marked as Exhibit G and his Reply Brief was marked as Exhibit H. The matter was submitted on February 11, 2013.

Application for Licensure

8. On January 27, 2011 respondent signed an Application for Licensure by Examination (the application) to become licensed as a registered nurse. The application was filed with the board on February 4, 2011.

9. The application asked whether respondent had ever been convicted of any offense other than a minor traffic violation. In response to that question, respondent checked the box marked "yes."

10. By letter dated November 30, 2011, complainant advised respondent that his application was being denied because he had been convicted of various crimes, including torture and child cruelty with the likelihood of injury or death. The letter advised him of his opportunity to appeal. On January 16, 2012, respondent requested a hearing, which resulted in the filing of the Statement of Issues.

Respondent's Convictions

11. On May 5, 1997, in *People v. Arthur Lynn Bravo*, Riverside County Superior Court, Case No. BRC00495, respondent pled guilty and was convicted of violating Penal Code sections 206, torture, and 273a, subdivision (a), child cruelty with the likelihood of injury or death, both of which are felonies.

12. Penal Code section 206 provides that "[e]very person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury. . . upon the person of another, is guilty of torture."

13. Penal Code section 273a, subdivision (a), prohibits individuals from engaging in cruelty to a child and provides that "[a]ny person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering . . . shall be punished by imprisonment"

14. As a result of his convictions, respondent was sentenced to serve 240 days in county jail with credit given for 101 days previously served, plus an additional 18 days of good time credit. He was placed on five years formal probation with numerous terms and conditions of probation that required him to: not associate with known drug dealers or users of controlled substances; abstain from controlled substances; participate in a rehabilitation treatment program; not own or possess a weapon, stay away from the victims; pay restitution; obey all laws; and comply with the other terms and conditions of probation.

15. Respondent complied with all the terms and conditions of probation. In 2003, respondent obtained a dismissal of the conviction under Penal Code section 1203.4. On April 30, 2010, pursuant to Part 3 of the Penal Code, the Riverside Superior Court issued respondent a Certificate of Rehabilitation.

Circumstances Leading to the Convictions

16. The circumstances giving rise to the convictions occurred over a week's period in January 1996. Respondent had a girlfriend of two months, D.M., who lived in an apartment with her 21-month-old son, A.M. On the evening of January 17, 1996, respondent went to his girlfriend's apartment. He accused her of infidelity, which she denied. Respondent went on a rampage. Starting that evening and over the course of the next several days, respondent tortured D.M. Respondent tied her to the bed with duct tape, and at times put duct tape over her mouth. He cut off her clothes, including her bra, with scissors. Respondent cut off her hair, first with scissors, then with hair clippers. He beat her severely using his fist and other items. He bit her leg. He would not allow her to leave or call for help. The beatings continued for days.

Respondent turned his rage to D.M.'s baby son and repeatedly beat him, using a belt on the child's face, buttocks and chest.

On January 26, 1996, while respondent was sleeping, D.M. escaped with her son and went to the apartment manager for help. The manager called the Blythe Police Department. When they arrived, police observed that D.M.'s body was covered with bruises. Her face was swollen. The whites of her eyes were red. She had a cut with dry blood on her upper

lip. She had numerous bruises on her body, including her face, shoulders, breasts, back, and buttocks, all in varying colors.¹ She had bite marks on her leg. Her hair was cut off.

Her twenty-one-month old son, A.M., had severe bruising on his chest, buttocks, and face.

The police found respondent in D.M.'s apartment and arrested him. The police observed blood on the apartment floor, women's clothing that had been cut off, blood on the cut clothing, and long pieces of duct tape both near the bed and in other parts of the apartment. There was a mop with blood on it, and in the freezer there were ice packs covered with blood. Police seized numerous items of evidence, including drug paraphernalia and substances later determined to be methamphetamine.²

Respondent's Testimony

17. Respondent is 39 years old. He grew up in the desert area of southern California. He had a happy childhood and was involved with his family's church. He took music lessons, participated in sports, and was on the high school yearbook staff. He excelled in high school and graduated in 1981. After graduation, he worked with his father in the landscaping business.

18. Respondent's parents remain married. Respondent characterized himself as a "house-husband and step-dad." For the past three years, he has had a girlfriend (or fiancé) named Denise. She is a nurse. They do not live together. Respondent lives with his sister, Jeana, and Jeana's son.

19. Before his conviction, respondent had two girlfriends. His first girlfriend was L.S. and his second was D.M., the adult victim of this case. Respondent and D.M. knew each other for about three to four months. They began dating about two months before

¹ By January 28, 1996, D.M.'s eyes, eye-lids and approximately one inch around both eyes were completely purple.

² These factual findings are based in part on information included in the police report and received under *Lake v. Reed* (1997) 16 Cal.4th 448, which held that portions of a law enforcement officer's report are admissible in an administrative proceeding over a hearsay objection, including the officer's percipient observations (also admissible as a public employee records exception, under Evidence Code section 1280) and the party's admissions (admissible as declarations against interest under Evidence Code section 1220). Under Government Code section 11513, subdivision (c), the admissible hearsay can support a factual finding, and the remaining hearsay statements (administrative hearsay) can be used to supplement or explain other evidence on which a factual finding can be made. (*Lake v. Reed* (1997) 16 Cal.4th at 461-462, 464.)

respondent tortured her in January 1996. Respondent and D.M. did not live together, although respondent would sometimes spend the night at her apartment.

20. Respondent acknowledged his convictions for torture of D.M. and child cruelty to A.M. However, he testified that he had little memory of the events leading to the convictions. He attributed his actions and lack of memory to his extensive use of alcohol and illicit drugs (methamphetamines) in the period preceding his arrest. Respondent testified he started using marijuana when he was about 19 or 20; he began using methamphetamine at about age 21; he continued to use illicit methamphetamines for 18 months to two years, until January 26, 1996, when he was arrested.

21. Respondent recalled some facts about that week in January 1996: He recalled arguing with D.M. and "some physical abuse" on his part. He remembered pushing and slapping D.M., taping her mouth with duct tape, and seeing a large amount of duct tape on the ground when he was arrested. He had no recollection of hitting the child. Instead, he recalled threatening spankings and admitted "being rougher than I should have been" with A.M.³

22. Respondent testified that he sometimes gets "flashes" of what occurred.

23. Respondent testified that the last time he used illicit drugs was the day before he was arrested in January 1996. He explained that he has never attended any kind of drug or alcohol rehabilitation program, but as part of his criminal sentence he was required to take an anger management class for a year. He felt the class taught him a number of helpful tools for dealing with life. Respondent has never had formal counseling or psychological treatment.

24. Respondent complied with the terms and conditions of probation, and he was released from probation on May 6, 2002.

25. Respondent testified that he was ashamed of his convictions. He called his actions "horrible," stating that he had been out of his "right mind" on drugs and that he does not want to hurt anyone else ever again.

26. After serving his sentence, respondent moved to Hemet and held several different jobs. He worked for a real estate property manager with his sister. He worked for Vons Market. In 2003, respondent was hired by Hemet Hospital and held various positions, such as a transportation aide (moving patients from one area of the hospital to another), a clerk in radiology, and later as a monitor observer in the hospital's telemetry department.

³ The First Amended Statement of Issues only used the initials "A.M." for both D.M. and A.M. The parties understood that the factual allegations applied to separate persons and the evidence correctly identified each individual. The mistake in pleading is found to be a clerical error without legal significance in this proceeding.

Occasionally, he provided "patient-sitting" services. He enjoyed his work and remained employed by Hemet Hospital until 2010, when there was a change in hospital ownership and he was among 90 people laid off. He has not been employed since.

27. In March, 2003, respondent's conviction was expunged under Penal Code section 1203.4.

28. Respondent began attending Mt. San Jacinto College in 2004. In December, 2009, he was awarded an associate's degree in nursing.

29. Respondent petitioned the Riverside County Superior Court for a certificate of rehabilitation pursuant to Part 3 of the Penal Code. In his petition for the certificate, respondent stated that he hoped to become a registered nurse. His petition was granted on April 20, 2010.

30. Respondent has done some volunteer work. In 2007, respondent volunteered to help raise funds for victims of the California wildfires. Most recently, he assisted physicians in canvassing voters before an election to help promote certain measures on the ballot. Respondent testified that he attends church with Jehovah's Witnesses twice a week and holds a personal Bible study two additional days each week.

31. Respondent wrote a letter to the board dated August 29, 2011, in response to the board's inquiry about the convictions. Respondent stated that 1996 was an "unhealthy period" in his life, that he had been "young and impressionable," that his relationship with D.M. had been dysfunctional from the beginning, and that as the relationship progressed, "so did the substance abuse." He explained that he had "only a vague recollection of the event that gave rise to my arrest." His letter included several comments about D.M. He stated, in part:

I was about 23 at the time. I had been introduced to drugs by [D.M.] and I clearly did not react well to them.

. . . .

Much of what she claimed did not happen and the physical evidence did not support her. . . . She exaggerated, lied and was caught.

Even though she lied, it did not excuse my conduct. I was appropriately punished for what I did do. I was improperly abusive while under the influence. I paid the price."

Respondent stated that since his conviction, he has returned to his faith, obeyed all laws, has taken educational courses, and "chose nursing as a vocation because I have dedicated myself to helping others."

Testimony of Michael Kania, Ph.D.

32. Michael Kania, Ph.D., testified as an expert on respondent's behalf. He has been licensed as a psychologist in California since 1980, specializes in forensic psychology, and has an extensive background in evaluating patients. Dr. Kania was a staff psychologist at Patton State Hospital from 1979 through 1987 and worked at Kaiser. He sits on a superior court panel and performs psychological evaluations for the courts and private attorneys. Dr. Kania has also maintained a private practice for several years, has testified as an expert, and has conducted over a few thousand evaluations regarding drug use and violence.

33. Dr. Kania was requested by respondent's attorney to evaluate respondent. Dr. Kania met with respondent for four hours on November 5, 2012. Respondent provided Dr. Kania with letters of recommendation and his nursing school transcript. Dr. Kania obtained a history from respondent and administered psychological tests. Dr. Kania considered respondent "a reliable historian," and according to his written report dated November 16, 2012, Dr. Kania based his understanding on what happened from the oral history respondent gave him. As to Dr. Kania's understanding of the "event," Dr. Kania stated in total:

Mr. Bravo reports a poor memory for the specific events that led to his arrest, but he acknowledges some prior fighting.

Ultimately, his girlfriend called police and when police arrived, she told them that he had hit her. By his report, she claimed that he would not allow her to leave the home for a number of days and that he had used duct tape to bind her. He was also charged with child cruelty. (He reports that it was later determined that the child was suffering from a severe diaper rash.)

Dr. Kania observed that respondent had no psychological problems as a child or teen that would have predicted his behavior in 1996. He noted that respondent attended a one year anger management class as part of his criminal sentence, but had not received individual or group psychotherapy as an adult, and was never involved in a substance abuse treatment program. He did not comment on the "flashes" about which respondent testified.

Respondent told Dr. Kania that he uses alcohol in moderation. He also stated that he was currently living with his girlfriend, her daughters, his sister and her son, that there have been no separations from his girlfriend, and that they plan to marry when he gets his R.N. license.

Dr. Kania opined that respondent was "guarded" during the evaluation, putting himself in the best light, as opposed to someone who wanted therapy and was therefore more open.

Based on his evaluation, Dr. Kania found "no evidence that Mr. Bravo suffers from any severe psychological or emotional disorder at the present time." While Dr. Kania determined that respondent had a mild amount of general anxiety and depression, he did not

feel that respondent suffered from a severe condition "that would impair his ability to function as a registered nurse, or that would cause him to be a threat to the health and safety of others." He believed respondent's violent acts were connected to his "drug and alcohol dependence at the time" and no longer existed. Dr. Kania could not guarantee that respondent would never again abuse drugs or become violent in the future, but felt that the likelihood respondent would relapse into such behavior was "slim."

Additional Evidence of Rehabilitation

34. Respondent's sister, Jeana Wood, wrote and testified on respondent's behalf. She is an office manager for a property management company and respondent worked for her for a period of time. Ms. Wood and her brother are very close. She knew his group of friends in 1996 and did not believe he was making good choices at the time. Ms. Wood learned of respondent's drug use and actions after he was convicted. She felt his conduct with the girlfriend and her infant son was out of character, and that it occurred because of his use of drugs. She has no concerns about his using drugs in the future. She found him to be "diligent and reliable" at work.

Respondent moved in with Ms. Wood about four months before the hearing. Ms. Wood considers respondent a wonderful and loving uncle to her 12-year-old son. Ms. Wood and her brother go to church twice a week and have Bible study. She believes her brother has taken responsibility for his misconduct and is remorseful. She admires his personal growth and accomplishments, and considers him to be "responsible, upstanding, honest, diligent, caring and compassionate." She believes he would be an asset as a registered nurse.

35. Michael Faurot has been a licensed respiratory care therapist since 1990. He met respondent on an airplane in 2003 and they became friends. Mr. Faurot began to work at Hemet hospital when respondent was in the telemetry department. They collaborated on union issues. Respondent told Mr. Faurot about his convictions, but he has never seen respondent act violently or consume alcohol to excess; when they meet, they mostly have iced tea. Mr. Faurot would have no reservation about respondent serving as his nurse.

36. Respondent submitted numerous letters of support praising his rehabilitation.

Several letters were from family members. Two were from his sister Jeana, the only family member who testified. In one of her letters, she indicated that she had worked with respondent "in several areas for the past 12 years," but the letter failed to mention that respondent was her brother. Respondent's aunt, Debbie Linquist, wrote that he was a "loving, caring person" whose convictions were borne from his drug use. His grandmother, Hazel Lindquist, also wrote on his behalf. She stated that he received an expungement because of "extenuating circumstances" that she did not address and called her grandson "family oriented, dependable and honest." She is proud of him and thinks he will be an asset to the nursing profession. Respondent's parents also wrote on his behalf.

Respondent's uncle, Steven Lindquist, wrote two letters for respondent. In one, he

indicated that he had known respondent his entire life and stated: "Art and I were very close as he was growing up and I had the opportunity to watch him grow into a loving, caring, giving and respectful young man." In another, he stated that he had "always found Art to be a reasonable and responsible individual" and that he had "never known Art to use or abuse any type of alcohol or drug, legal or illegal."

37. One of the letters was written by Denise M. Kenzy, a registered nurse, who had known respondent for 8 years, started dating him in 2009, and referred to him as her "fiancé." She praised respondent's relationship with her teenaged daughters: "Art has been a wonderful father to my girls, he has always set a good example, teaching them love, patience, respect, humor and showing them the same." Ms. Kenzy indicated she knew about the convictions. Ms. Kenzy did not testify.

Of the many individuals who wrote that they were aware of respondent's convictions for torture and child cruelty, none demonstrated any knowledge of the underlying facts other than that respondent had been using drugs at the time. Almost all of the letters stated that respondent had been to counseling, which, based on respondent's testimony and the expert's report, was not correct.

Respondent submitted letters of support written by physicians, including Darshan K. Dhiman, M.D., Milan Chakrabarty, M.D. None of the physician letters reflected knowledge that the author was aware of respondent's convictions.

LEGAL CONCLUSIONS

The Burden and Standard of Proof

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that he is qualified to hold the license. In order to prevail, respondent must demonstrate by a preponderance of the evidence that he is entitled to a license as a registered nurse. (Evid. Code §§ 115, 500.)

Applicable Statutes and Regulations

2. Business and Professions Code, section 480⁴ addresses an agency's authority to deny a license application. It provides in part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of

⁴ Unless otherwise noted, code section references are to the Business and Professions Code.

guilty or a conviction following a plea of nolo contendere . . . irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

.
(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code

3. Under section 493, when a board takes action to deny a license application based on the applicant having been convicted of a substantially related crime, "the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, function, and duties of the license in question."

4. Section 2761, subdivision (f), also provides that the board may deny the issuance of a license for conviction of a felony or of any offense substantially related to the qualifications, functions, or duties of a registered nurse.

Substantial Relationship

5. A conviction alone will not support a denial of a license unless the crime substantially relates to the qualifications, functions, or duties of the business or profession in question. (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402.) Under Business and Professions Code section 481, each licensing agency is required to develop substantial relationship criteria.

6. California Code of Regulations, title 16, section 1444 sets forth the board's substantial relationship criteria. It provides in part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered

nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

7. Respondent's convictions for torture and child cruelty and, more importantly the acts underlying those convictions, are substantially related to the qualifications, functions and duties of a registered nurse. Each involved violent and abusive conduct and a disregard for the sanctity of life. A registered nurse is charged with taking actions to help and heal. Under the board's Recommended Guidelines for Disciplinary Orders and Conditions of Probation, when there is "substantiated evidence or convictions of physical abuse," the recommended disciplinary action is revocation. Convictions and acts involving torture and cruelty to a child that is likely to result in injury or death reflect conduct inherently inconsistent with being a registered nurse.

Rehabilitation Criteria

8. Under section 482, subdivision (a), each board must develop criteria to evaluate the rehabilitation of an applicant for whom the board is considering denial of an application. The board is required to "take into account all competent evidence of rehabilitation furnished by the applicant."

9. For the Board of Nursing, the applicable criteria are outlined in California Code of Regulations, title 16, section 1445, subdivision (a), which states:

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

- (4) Evidence, if any, of rehabilitation submitted by the applicant.

Evaluation

10. Respondent has shown several indices of rehabilitation. Seventeen years have passed from his misconduct, and his convictions occurred over 16 years ago. His convictions were expunged and he has obtained formal certificate of rehabilitation. He has remained law abiding. He claims he is involved in his church, that he no longer uses illicit drugs, and that he only occasionally uses alcohol. He was employed at a hospital for many years until he was laid off in 2010. Numerous people wrote letters of support. The evidentiary significance of an individual's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*In Re Gossage* (2000) 23 Cal.4th 1080, 1098; *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Indeed, one of the most crucial indicators of rehabilitation is sustained good conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.) By this yardstick, respondent has satisfied numerous indicia of rehabilitation.

11. Rehabilitation is a state of mind. The law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.) Respondent did not demonstrate the state of mind of a rehabilitated person and there were several elements of his presentation that were troubling.

Respondent still blamed the victim and failed to take full responsibility for his drug use or heinous conduct. Though he claimed he had little memory of his actions, he blamed D.M. for his drug use (even though he had been using methamphetamines and marijuana for well over a year before even meeting her) and he called her a liar.

The evidence established respondent beat twenty-one-month old A.M. with a belt and that the police saw several severe bruises on the child's buttocks, chest, and face. Yet, respondent testified, without any evidentiary support, that the child's injuries proved merely to be a "bad diaper rash." He didn't think he really hit the child.

Respondent claimed to be remorseful, but his testimony showed he did not fully accept responsibility for his actions. Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The amount of evidence of rehabilitation required to justify admission varies according to the seriousness of the misconduct at issue. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1086.) In this case, the misconduct was not just serious, but heinous. Respondent was convicted of torture and of cruelty to a child with the likelihood of great

bodily injury or death. His convictions are conclusive proof that he engaged in these serious and violent behaviors. (*Arneson v. Fox* (1980) 27 Cal.3d 440, 452.)

Significant corroborative evidence was missing from respondent's showing of rehabilitation. He testified that he is actively involved in his church and has a regular Bible study. No clergy testified to respondent's rehabilitation or service to his faith. None wrote a letter on his behalf.

Respondent's testimony regarding his current relationship was vague and unsubstantiated. He claimed he had a girlfriend, Denise, and that they were engaged to be married. A month before the administrative hearing, he told Dr. Kania he was living with her. At the hearing, however, he testified that he was living with his sister and was no longer living with Denise. Respondent did not adequately explain this and Denise did not testify.

Respondent claimed several medical doctors have indicated they would hire him if he became a nurse. However, during his testimony respondent admitted that he never told any of these medical doctors about his convictions.

12. The opinion of respondent's forensic psychologist was flawed and lacked credibility. Dr. Kania concluded that respondent could safely practice as a registered nurse. He stated that based on his interview and review of the tests he administered, the likelihood that respondent would repeat his violence, drug use, or abuse, was "slim." Even though respondent testified that he had little memory of the events in 1996, Dr. Kania called him a "good historian" and based his understanding on what happened solely from what he gleaned from speaking with respondent.

Dr. Kania testified that he reviewed the police report, but that does not appear to be the case. Nothing in his written report indicated he reviewed a police report. On the contrary, his report states "Mr. Bravo provided letters of reference from co-workers and I reviewed these letters. I also reviewed the transcript of his nursing education." Nowhere does he mention having reviewed any police records.

Dr. Kania's characterization of the misconduct as respondent merely having "hit" the victim, his reliance on respondent's representation that he never injured the child but that the child's injuries were later found to be the result of "a bad diaper rash," and his failure to mention the police reports in his written opinion demonstrates that Dr. Kania did not review the police report, and thus did not have an accurate picture of the torture respondent inflicted on two victims. Had he read the reports, he would have learned of far more egregious misconduct than respondent reported. He would have read the officer's graphic observations of brutal injuries to both victims and not the whitewashed version conveyed by respondent. He would likely have wondered why respondent misreported what actually occurred. Dr. Kania did not have an accurate picture of the misconduct.

In addition, Dr. Kania testified that he inquired only into respondent's violence with the victim, D.M., and did not ask respondent if he had ever engaged in violence with any

other former girlfriend because respondent had not been “convicted” of violence with other women. When respondent met with Dr. Kania in November 2012, respondent told Dr. Kania he was living with his girlfriend/fiancé Denise and they had never been separated. However, a month later, during the hearing, respondent was no longer living with Denise, Dr. Kania was unaware of this, and Denise did not testify. Dr. Kania’s failure to inquire about any violence with former girlfriends other than D.M. was disconcerting.

Dr. Kania’s opinion was insufficient to establish that respondent is safe to practice as a registered nurse. California courts repeatedly underscore that an expert’s opinion is only as good as the facts and reason upon which that opinion is based:

Like a house built on sand, the expert’s opinion is no better than the facts on which it is based. . . . [W]here the facts underlying the expert’s opinion are proved to be false or nonexistent, not only is the expert’s opinion destroyed but the falsity permeates his entire testimony. (*Kennemur v. State of California* (1982) 133 Cal.App.3d 907, 924.)

Dr. Kania’s opinion was not based on an accurate picture of the facts. His report and opinion were flawed and biased, and is thus given little weight. (See, *Foreman & Clark Corp. v. Fallon* (1971) 3Cal.3d 875, 890.)

13. Respondent has never had therapy to address the torture, cruelty, drug use, or the “flashes” he described. He claimed his anger management class, taken as part of his criminal probation, sufficiently addressed the issues. There was insufficient evidence to support respondent’s suggestion.

14. Finally, the evidence showed that nothing in respondent’s life could have predicted he would eventually torture a girlfriend of two months or inflict cruelty on a child. Respondent led a secret life. His sister, the only person testifying on respondent’s behalf who knew him before and after the incidents resulting in the convictions, testified that she had not been aware he was using drugs when he was using them. In a letter, his uncle indicated he “watched him grow into a loving, caring, giving and respectful young man” and that he never knew him to use or abuse drugs. Loving, caring, giving and respectful people do not torture their partners or inflict cruelty on small children.

15. The weight of the evidence did not establish that respondent was sufficiently rehabilitated from his violent conduct to warrant the issuance of a license as a registered nurse. However, respondent obtained a certificate of rehabilitation. This changed the legal landscape insofar as his convictions were concerned.

The Effect of Business and Professions Code section 480, subdivision (b)

CAUSE DOES NOT EXIST TO DENY A LICENSE TO RESPONDENT BASED
SOLELY ON HIS CONVICTIONS

16. In April 2010, respondent obtained a certificate of rehabilitation from the superior court. Under Business and Professions Code section 480, subdivision (b), such a certificate precludes the board from relying solely on the convictions as a basis for denying him a license as a registered nurse. Therefore, and despite the substantial relationship between respondent's convictions and licensure as a registered nurse, by statute, cause does not exist to deny respondent a license based on his conviction of torture, a felony, or based on his conviction of child cruelty with the likelihood of great bodily injury, also a felony.

CAUSE EXISTS TO DENY TO RESPONDENT A LICENSE ON THE BASIS OF
HIS DRUG USE AND VIOLENT ACTS

17. The weight of the evidence established that respondent used and was under the influence of methamphetamines on January 25 and 26, 1996, that he held his girlfriend D.M. hostage and prevented her from leaving the home, that he used duct tape to tape her mouth shut, that he cut her clothing from her body while she lay helpless, that he cut her hair against her will, that he repeatedly beat her, and that he was violent with her baby son, A.M., and injured him.⁵

18. Illicit drug use, domestic violence and torture, and cruelty to a child are acts that would be grounds for suspension or revocation of a license if done by a licensed registered nurse. (Bus. & Prof. Code, §§ 2761, subd. (a) [general unprofessional conduct]; 2762, subds. (a) and (b) [unauthorized self use of a dangerous drug; use in a manner dangerous to self or others]. As such, cause exists under Business and Professions Code section 480, subdivision (a)(3)(A) to deny respondent's application to become license as a registered nurse because he engaged in acts that if done by a licensee, would have been grounds for suspension or revocation.

19. Respondent objected to complainant's reliance on these acts as independent grounds to deny a license to respondent. He claimed they were so inextricably intertwined with his convictions that his certificate of rehabilitation precluded their consideration as separate bases for denying a license. Respondent is incorrect.

Rules of statutory construction support the conclusion that the board may independently rely on respondent's serious misconduct as grounds for denying him a license – even though it cannot rely solely on his convictions.

⁵ Though there was evidence that respondent used methamphetamines for about two years and marijuana for a longer period of time, this was not alleged as grounds for denial of the requested license.

A statute must be interpreted so as to effectuate its purpose. (*Pollack v. Department of Motor Vehicles* (1985) 38 Cal.3d 367, 372.) The plain language of a statute is usually the best indication of intent. The words “should be given their ordinary and usual meaning and should be construed in their statutory context.” (*Szold v. Medical Board* (2005) 127 Cal.App.4th 591, 596, quoting *Whaley v. Sony Computer Entertainment America, Inc.* (2004) 121 Cal.App.4th 479, 484-485.)

Business and Professions Code section 480, subdivision (b) states in part that “no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation.” (Bus. & Prof. Code, 480, subd. (b); *emph. added.*) The Legislature enacted the statute to open a door for convicted felons who could demonstrate a level of general rehabilitation, without regard to a specific profession or the nature and extent of the conduct underlying the conviction. It included the word “solely” to limit the use of a certificate of rehabilitation and ensure state agencies could exercise their authority and discretion in evaluating an applicant’s request for licensure and fitness to hold that license.

Respondents’ suggested interpretation would require a rewriting of section 480, subdivision (b). First, it would require the elimination of the adjective “solely,” even though a statute should be construed to give effect “to all its provisions, so that no part will be inoperative or superfluous, void or insignificant” (*AFL-CIO v. Deukmejian* (1989) 212 Cal.App.3d 425, 435.) Any interpretation that requires deletion of a provision in order to make sense is contrary to law. (*Conrad v. Medical Bd.* (1996) 48 Cal.App.4th 1038, 1046.)

In addition, respondent’s interpretation would require a separate insertion into the provision – that a license could not be denied “on the basis that he or she has been convicted of a felony or on the basis of the facts underlying the conviction” if he or she has obtained a certificate of rehabilitation. Such an insertion would also be improper. (Cal. Code Civ. Proc., § 1858⁶.)

A certificate of rehabilitation is available to convicted felons who have successfully completed their criminal sentences, and who have undergone an additional and sustained period of rehabilitation that is satisfactory to a superior court. (Pen. Code, § 4852.03.) To enter an order for a certificate of rehabilitation, “the superior court must find that the petitioner is both rehabilitated and fit to exercise the rights and privileges lost by reason of his conviction.” (*People v. Ansell* (2001) 25 Cal.4th 868, 877.) The certificate of

⁶ “In the construction of a statute or instrument, the office of the Judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all.” (Code. Civ. Proc., § 1858.)

rehabilitation reinstates most of a felon's civil and political rights.⁷ His states that respondent "has been rehabilitated and is fit to exercise all the civil and political rights of citizenship (except as provided in Penal Code section 4852.15)" Nothing in the statute, however, provides that a convicted felon who holds a certificate of rehabilitation has the right to practice any particular profession regulated by the state.

A license is a privilege, not a right of citizenship. (*California Gullnetters Assn. v. Dept. of Fish and Game* (1995) 39 Cal.App.4th 1145, 1155; *Frankel v. Board of Dental Examiners* (1996) 46 Cal.App.4th 534, 551.) The fact that respondent's civil and political rights have been reinstated does not prevent a state agency from denying the issuance of a license; under Penal Code, section 4852.15, "[n]othing this chapter [relating to certificates of rehabilitation and pardons] shall be construed to abridge or impair . . . the power or authority conferred by law upon any board that issues a certificate permitting any person to practice or apply his or her art or profession on the person of another." (Pen. Code, § 4852.15.)

Business and Professions Code section 480, subdivision (b), supersedes Penal Code section 4852.15 as to respondent's convictions. It specifically prohibits state agencies, such as the board, from denying an occupational or professional license to the holder of a certificate of rehabilitation solely on the basis that "he has been convicted of a felony" where the applicant received a certificate of rehabilitation.

20. The question is whether the underlying acts can be considered a separate basis for discipline under section 480, subdivision (a)(3)(a) – any act that if done by a licensee of the business or profession would be grounds for suspension or revocation of the license. In this case, the acts that complainant alleges as separate grounds for denial of the license are separate from the fact that respondent was convicted of a felony. This separation is consistent with other parts of the Business and Professions Code. In section 493, for example, when a board takes action to deny a license application based on the applicant having been convicted of a substantially related crime, "the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, function, and duties of the license in question." (Bus. & Prof. Code, § 493; *emph. added*.) Thus, section 493 treats the fact of conviction different from the underlying conduct. So, too, does section 480, subdivision (b).

The certificate of rehabilitation limits the board's authority to rely on a conviction – but it does not diminish the board's authority to rely on the underlying conduct as grounds

⁷ A certificate of rehabilitation does not authorize the removal of the conviction from the felon's record and does not seal it. If a dangerous weapon was used in the crime, a certificate of rehabilitation does not restore the person's right to own or possess a weapon. (*People v. Ansell* (2001) 25 Cal.4th 868, 877.)

for denying a request for a license. An applicant's actions go directly to that applicant's fitness to serve in the particular profession. And where such grounds exist to establish that an applicant's actions constitute grounds for denial of a license, as they do in this case, section 480, subdivision (b), does not impair the board's power to exercise its discretion in the public interest, to evaluate the applicant's rehabilitation, and to determine if that applicant has shown sufficient rehabilitation to become a licensee.

The policies and purpose of section 480, subdivision (b) have been fully honored in this case. Respondent is not being denied a license solely on the basis of his convictions. It is his egregious misconduct and his insufficient showing of rehabilitation in light of that misconduct that supports the denial of his application to become a registered nurse.

Respondent has shown Insufficient Evidence of Rehabilitation to Justify Issuing Him a License as a Registered Nurse

21. The primary purpose of the board is to protect the public. (*Excelsior College v. Board of Registered Nursing* (2006) 136 Cal.App.4th 1218, 1225.) That purpose is the board's highest priority when it exercises its licensing and disciplinary functions: "Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 2708.1.)

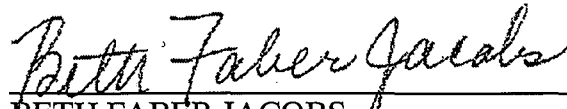
22. Respondent's certificate of rehabilitation restored his civil rights and prevents the board from withholding licensure based solely on his convictions, but it does not divest the agency of its responsibility to independently consider his actions and determine whether he has demonstrated sufficient rehabilitation to establish that he can safely practice as a nurse. Respondent's violent acts were inconsistent with being a registered nurse. The fact that a superior court determined respondent showed enough rehabilitation to regain his civil rights is a step in the right direction for respondent – but it does not remove the board's independent authority or responsibility to look at the totality of the evidence. Respondent's acts and his insufficient rehabilitation from those acts preclude him from entering the nursing profession at this time.

23. Under the board's disciplinary guidelines, when an applicant has a history of drug abuse (which respondent, in this case, claims was the primary cause for his misconduct), and that individual seeks a license from the board, the board looks for successful completion of a drug/alcohol treatment program for a minimum of six months, which includes individual or group counseling, random and documented biological fluid screening, participation in a professional support group, education about addictive disease, adherence to a 12-step recovery program or equivalent, documentation of that participation, and at least six months documentation from an employer that there was no evidence of alcohol or drug use. Respondent has done none of this. He has not had therapy. He failed to take full responsibility for his misconduct. Many of his assertions regarding rehabilitation lacked corroboration. His expert's opinion was flawed. It would be against the public interest to permit respondent to have a license as a registered nurse, even with probationary terms. Public protection requires that his request for licensure be denied.

ORDER

The application of respondent Arthur Lynn Bravo for a license as a registered nurse is hereby denied.

DATED: March 13, 2013

A handwritten signature in cursive script, reading "Beth Faber Jacobs", is written over a horizontal line.

BETH FABER JACOBS

Administrative Law Judge

Office of Administrative Hearings

Exhibit A

First Amended Statement of Issues Case No. 2012-680

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Statement
12 of Issues Against:

13 **ARTHUR LYNN BRAVO, JR.**

14 Respondent.

Case No. 2012-680

OAH No. 2012 06 0134

**FIRST AMENDED STATEMENT OF
ISSUES**

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Statement of
18 Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
19 Department of Consumer Affairs.

20 2. On or about February 4, 2011, the Board of Registered Nursing, Department of
21 Consumer Affairs received an application for a Registered Nurse License from Arthur Lynn
22 Bravo, Jr. (Respondent). On or about January 27, 2011, Arthur Lynn Bravo, Jr. certified under
23 penalty of perjury to the truthfulness of all statements, answers, and representations in the
24 application. The Board denied the application on November 30, 2011.

25 **JURISDICTION**

26 3. This First Amended Statement of Issues is brought before the Board of Registered
27 Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All
28 section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

1 (b) Notwithstanding any other provision of this code, no person shall be denied
2 a license solely on the basis that he or she has been convicted of a felony if he or she
3 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
4 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
convicted of a misdemeanor if he or she has met all applicable requirements of the
criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
person when considering the denial of a license under subdivision (a) of Section 482.

5 (c) A board may deny a license regulated by this code on the ground that the
6 applicant knowingly made a false statement of fact required to be revealed in the
application for the license.

7 7. Section 493 of the Code states:

8 Notwithstanding any other provision of law, in a proceeding conducted by a
9 board within the department pursuant to law to deny an application for a license or to
10 suspend or revoke a license or otherwise take disciplinary action against a person who
11 holds a license, upon the ground that the applicant or the licensee has been convicted
12 of a crime substantially related to the qualifications, functions, and duties of the
13 licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

14 As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

15 8. Section 2761 of the Code states:

16 The board may take disciplinary action against a certified or licensed nurse or
17 deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

19

20 (f) Conviction of a felony or of any offense substantially related to the
21 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

22

23 9. Section 2765 of the Code states:

24 A plea or verdict of guilty or a conviction following a plea of nolo contendere
25 made to a charge substantially related to the qualifications, functions and duties of a
26 registered nurse is deemed to be a conviction within the meaning of this article. The
board may order the license or certificate suspended or revoked, or may decline to
27 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his

1 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
2 guilty, or dismissing the accusation, information or indictment.

3 REGULATORY PROVISIONS

4 10. California Code of Regulations, title 16, section 1444 states:

5 A conviction or act shall be considered to be substantially related to the
6 qualifications, functions or duties of a registered nurse if to a substantial degree it
7 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

8 (a) Assaultive or abusive conduct including, but not limited to, those violations
9 listed in subdivision (d) of Penal Code Section 11160.

10 (b) Failure to comply with any mandatory reporting requirements.

11 (c) Theft, dishonesty, fraud, or deceit.

12 (d) Any conviction or act subject to an order of registration pursuant to Section
290 of the Penal Code.

13 11. California Code of Regulations, title 16, section 1445 states:

14 (a) When considering the denial of a license under Section 480 of the code, the
15 board, in evaluating the rehabilitation of the applicant and his/her present eligibility
for a license will consider the following criteria:

16 (1) The nature and severity of the act(s) or crime(s) under consideration as
grounds for denial.

17 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
18 under consideration as grounds for denial which also could be considered as grounds
for denial under Section 480 of the code.

19 (3) The time that has elapsed since commission of the act(s) or crime(s)
20 referred to in subdivision (1) or (2).

21 (4) The extent to which the applicant has complied with any terms of parole,
probation, restitution, or any other sanctions lawfully imposed against the applicant.

22 (5) Evidence, if any, of rehabilitation submitted by the applicant.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(May 5, 1997 Criminal Convictions for Torture, False Imprisonment & Child Cruelty)**

3 12. Respondent's application is subject to denial under section 480, subdivisions (a)(1)
4 and (a)(3)(A) of the Code in that he was convicted of crimes that are substantially related to the
5 qualifications, duties, and functions of a registered nurse. Such convictions would be grounds for
6 discipline under section 2761, subdivision (f) of the Code for a licensed registered nurse. The
7 circumstances are as follows:

8 a. On or about May 5, 1997, in a criminal proceeding entitled *People of the*
9 *State of California v. Arthur Lynn Bravo*, in Riverside County Superior Court, case number
10 BCR00495, Respondent was convicted on his plea of guilty to violating Penal Code sections 206,
11 torture; 236, false imprisonment; and 273a, subdivision (a), child cruelty with the possibility of
12 injury/death, felonies.

13 b. As a result of the convictions, on or about May 7, 1997, Respondent was
14 sentenced to 240 days in the Riverside County Jail, with credit for 101 days already served, plus
15 an additional 18 days. Respondent was granted formal probation for 60 months on the following
16 terms and conditions: do not associate with known drug dealers or users of controlled substances;
17 submit to a search of himself, auto, home, garage and storage, without cause, for the detection of
18 controlled substances and weapons; participate at Respondent's expense in a rehabilitation or
19 treatment program; no owning or possessing a firearm or deadly weapon; to stay away from his
20 victims; pay restitution to the victims; pay the cost of court-ordered testing, and payment of court
21 fees, fines, and restitution in the amount of \$3,490.

22 c. The circumstances that led to the conviction are that on or about the
23 morning of January 26, 1996, officers from the Blythe Police Department responded to an
24 apartment complex regarding a report of a battery. Upon arrival, they met with the apartment
25 managers who directed the officers to an adult female (A.M.) and her 21-month-old son in a back
26 room of the manager's office. A.M.'s face was swollen and bruised, the whites of her eyes were
27 red, and she had a cut with dried blood on her upper lip. A.M. told the officer that her boyfriend
28 (Respondent) beat her up and that he was still in the apartment asleep. The officers gained entry

1 into A.M.'s apartment and took Respondent into custody. The police found blood in the kitchen,
2 bathroom and bedroom. A.M. related to detectives during questioning that Respondent came to
3 her apartment on the evening of January 17, 1996. He was acting crazy and accused her of
4 cheating on him. Respondent gave A.M. a choice between having her hair cut off or her toe cut
5 off because she was not giving him the answers he wanted. She chose her hair; Respondent cut it
6 off with electric clippers. Respondent covered her eyes and mouth with duct tape, taped her
7 hands behind her back, and left her on the bed for two days. Respondent eventually untied A.M.
8 and allowed her to use the bathroom. For nearly a week, Respondent held A.M. hostage in the
9 apartment. Respondent forced A.M. to pretend that everything was O.K. when neighbors or
10 friends came to the door or called on the telephone. Respondent would tell visitors that A.M. was
11 in the shower. A.M. was afraid to call the police because Respondent said he would only do a
12 year's time, then get out and kill her. On January 25, 1996, Respondent punched and kicked
13 A.M. after she used the telephone to call for help. Respondent then took A.M. into the bathroom
14 and cut off her shirt and bra, and choked her until she was unconscious. Respondent told A.M.
15 that unless she gave him the answers he was looking for, he would beat her son. Respondent took
16 the infant into the bedroom; A.M. could hear her son being hit and his muffled cries. Respondent
17 continued to demand that A.M. confess to having an affair. Respondent hit the infant across the
18 face and chest with a leather belt. On the morning of January 26, 1996, A.M. was able to escape
19 the apartment with her son while Respondent was asleep. Interviews with neighbors corroborated
20 that A.M. was last seen on January 17, 1996, and that during the week she was held hostage, there
21 was a lot of fighting, noise, and crying coming from A.M.'s apartment. A.M. was photographed
22 by police officers with the following injuries: bruising all over the eyes, with older bruising
23 (yellowish tint) visible on the rest of her face, there was fresh and older bruising on A.M.'s chest,
24 shoulders, back, and a bite on her shin. The infant had a bruise on his cheek and chest, and
25 several bruises on his buttocks. In a sworn Declaration in Support of Bail Increase, the declarant
26 stated "This case is the worst incident of torture, and battery to a cohabitant that the undersigned
27 has seen in his thirteen years as a peace officer with four different law enforcement agencies."

28 ///

(Unprofessional Conduct - Use of Methamphetamine, Assault and Abuse of a Child)